

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Penna.

Division

Case No.

19-04678

(to be filled in by the Clerk's Office)

Martin W. Jones

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Tony Marsaglia, et al.,

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Martin W. JonesN/ANN-4778SCI-Camp HillPo Box 200Camp Hill

City

Penna. 17001

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Frank NajeraUpper Saucon Police DetectivePhone # 610-972-2732Upper Saucon Police Department5500 Camp Meeting RdCenter Valley PA. 18034-8401

City

State

Zip Code

 Individual capacity Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Michael KaminskiPolice Officer#50Upper Southampton Police Dept.939 Street Rd,Southampton Penna. 18966

City

State

Zip Code

 Individual capacity Official capacity

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Defendant No. 3

Name
 Job or Title (if known)
 Shield Number
 Employer
 Address

Joshua Mallory
Bucks County Detective
99-30
Bucks County District Attorney
100 N. Main St.
Dobbs Ferry Penna. 18901
 City State Zip Code

Individual capacity Official capacity

Defendant No. 4

Name
 Job or Title (if known)
 Shield Number
 Employer
 Address

Tony Marsaglia
Upper Southampton Police Detective
610-637-4536
Upper Southampton Police Detective
939 Street Rd.
Southampton Penna. 18966
 City State Zip Code

Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim) SEE EXHIBIT: A

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

SEE EXHIBIT: B

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

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N/A

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

SEE EXHIBIT :C

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

Pretrial detainee
 Civilly committed detainee
 Immigration detainee
 Convicted and sentenced state prisoner
 Convicted and sentenced federal prisoner
 Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

SEE EXHIBIT :D

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

N/A

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C. What date and approximate time did the events giving rise to your claim(s) occur?

April 11, 2018, and between November 7, 2017 1-10-2018

L. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

SEE EXHIBIT: D

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

N/A

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

SEE EXHIBIT: E

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes
 No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes
 No
 Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes
 No
 Do not know

If yes, which claim(s)?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

Yes
 No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 9-11-2020

Signature of Plaintiff

Martin W. Jones

Printed Name of Plaintiff

Martin W. Jones

Prison Identification #

NW-4778

Prison Address

SCI-Camp Hill

Camp Hill

Penna. 17001

City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Case No. 19-04678

EXHIBIT A

I. JURISDICTION & VENUE

①

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1333(9)(3). Plaintiff Jones seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff Jones claims compensatory and punitive damages relief are authorized by 28 U.S.C. Section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2. CONSTITUTIONAL AMENDMENTS

A. AMENDMENT 4th

The right of the people to be secure in their persons, houses, papers, and seizures, shall not be violated.

B. AMENDMENT 14th

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State, where in they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, or property, without due process of law; nor deny any person within its jurisdiction, the equal protection of the law.

Case No. 19-04678

(2)

EXHIBIT B

3. Each Defendant is being sued in his individual capacity. At all times in this complaint defendant acted under color of State law.
4. All defendants acted outside their scope of duty.

FACTS

5. Plaintiff Jones asserts that Defendant's Macsaglia, Najera and Mallory, in their individual capacities, unlawfully entered and searched Plaintiff Jones's residence, on April 11, 2018. And defendant Kaminski.
6. Defendant Kaminski Conspired with defendant's Macsaglia, Najera and Mallory To violate ~~my~~ plaintiff Jones's 4th Amendment and 14th Amendment.
7. The search of plaintiff's residence was not a protective sweep.
8. Defendant's Najera and Mallory unlawfully searched plaintiff Jones's 2 cell phones.
9. Defendant Najera Confiscated 2 cell phones in a traffic stop.

LEGAL CLAIM

10. Plaintiff Jones, reallege and incorporate by reference paragraphs 1, defendants acted to plaintiff Jones's needs.
11. On April 11, 2018, defendant Kaminski signed a criminal complaint for plaintiff Jones, from incident September 1, 2017.

EXHIBIT D

Case No. 19-64678

(3)

EXHIBIT D

12. All defendant's played a roll, which they wrote out, in a plan: THE BUCKS COUNTY DRUG STRIKE FORCE, Ops MISSION: On April 11, 2018, defendant's planned to serve a body warrant on plaintiff Jones.
13. In that defendants Marsaglia, Najera, Mallery and Kaminski Conspired to violate plaintiff Jones's, 4th and 14th Amendment's.
14. Defendants openly written it, in the plan of attack.
15. Each Government official defendant's, through the official's own individual actions, has violated the Constitution.
16. On November 7, 2017, defendant Najera placed plaintiff Jones, under arrest for possession of drug paraphernalia in a traffic stop.
17. Defendant Najera confiscated 2 cell phones from plaintiff Jones, plaintiff Jones was incarcerated for 2 weeks. On or about November 21, 2017, plaintiff got out of jail, and went to Upper Saucon Township Police department, to retrieve his cell phone's from defendant Najera.
18. Defendant Najera and Mallery both reviewed plaintiff's 2 cell phones, Then had Plaintiff sign consent after they viewed and extracted both cell phones.
19. On 1-10-2018, defendant Najera returned, Plaintiff's 1 cell phone, And had Plaintiff sign a consent form for only 1 cell phone. After the extraction.

Case No. 19-04678

(4)

EXHIBIT D

20. On 1-10-2018 when plaintiff retrieved his cell phone, plaintiff didn't know about 2nd cell phone that defendant Najera had.

21. In a Summary report on February 13, 2018, to defendant Mallery, Defendant Najera tells Mallery in e-mail, That he has in his possession 2 cell phone extraction, from plaintiff Jones's 2 cell phones.

22. Plaintiff Jones wants copy of 2nd cell phone Extraction.

PRAYER FOR RELIEF

23. WHEREFORE, plaintiff respectfully pray that this court Enter judgement:

24. Granting plaintiff Jones, a declaration that the acts and omission described here in violate plaintiff Jones's rights, Against each defendant, jointly and severally.

25. Granting plaintiff Jones, Compensatory Damages in the amount of: what court deems, just and fair.

26. Granting plaintiff Jones, Punitive Damages in the amount of: what court deems, just and fair.

27. Plaintiff also seeks jury trial on all issues triable by jury.

28. Plaintiff also seeks recovery of their cost in this suit, and

29. Any additional relief this court deems just, proper, and equitable.

Martin W. Jones INN-4778

Martin W. Jones Date

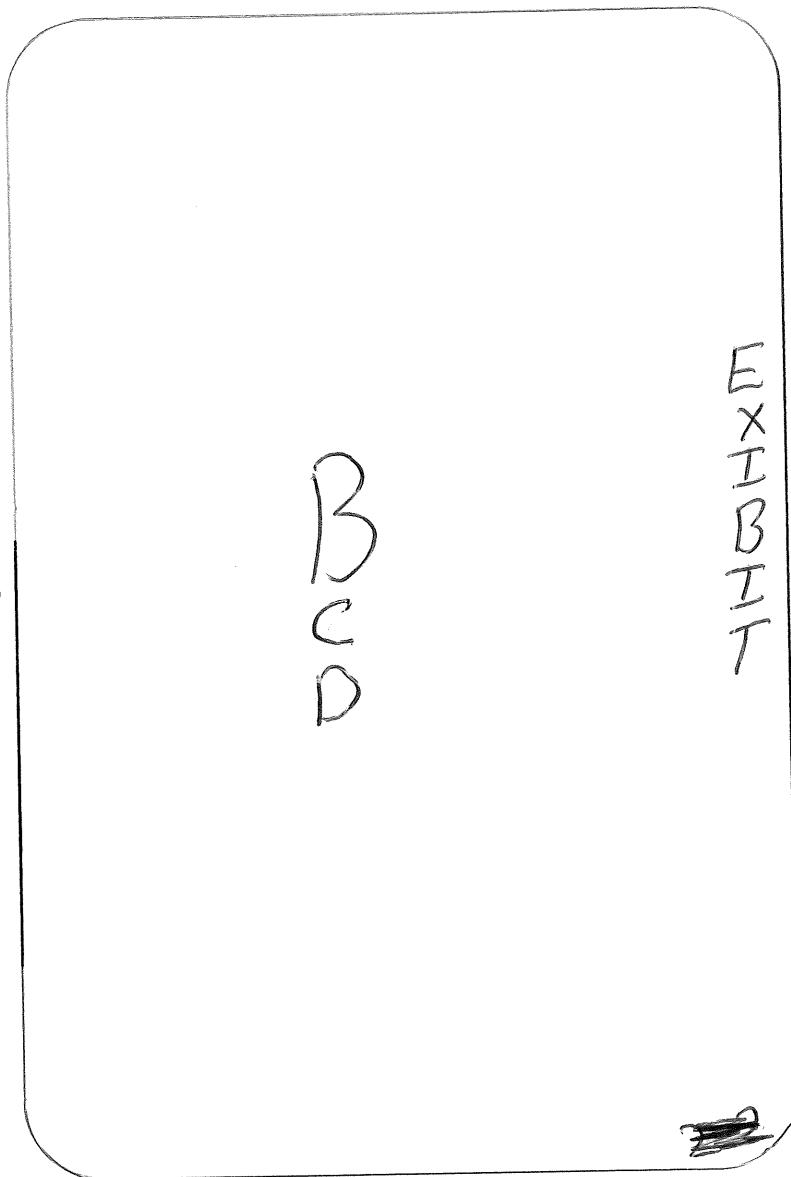
Sci-Campbell

9-11-2020

P.O. Box, 200

Campbell, PA,

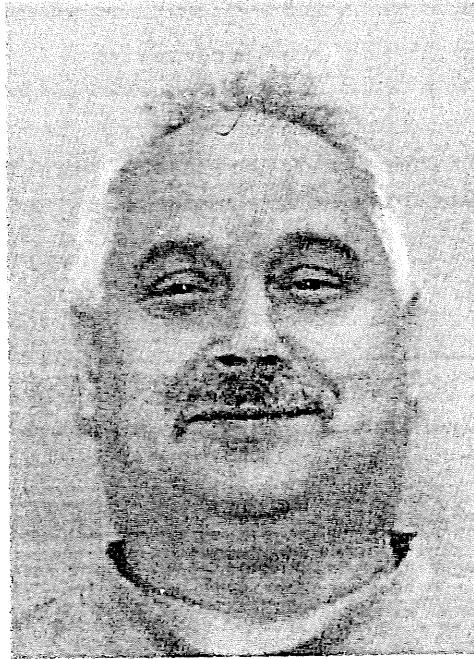
17001



Address & description: 4400 Old Bethlehem Pk, Center Valley, PA 18034 (Upper Saucon Twp)

TARGET INFORMATION

Biographical Information & Photo



Martin Jones 8-1-62

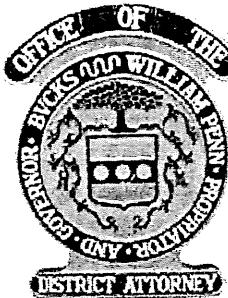
Criminal History

EXTENSIVE history dating back to 1982 to include assaults, burglary, theft, drugs, firearms

WEAPONS

None reported by cooperating parties, felon not to possess

D



**Drug Strike Force
Ops Plan**

Case #: 99-2018-0219	Detective: Mallery	Supervisor: DC Mosiniak
Briefing Date: 4-11-18	Briefing Time: 1530	
Briefing Location: Upper Saucon Township Police		
Ops Plan Prepared by: Mallery	Approved by:	
Controlled Buy:	Search Warrant:	Arrest Warrant: XX

CASE BACKGROUND/MISSION

Martin Jones had been the operator of a vehicle in September 2017 in Upper Southampton Township, Bucks County in which 5 ounces of methamphetamine had been recovered. Initially, passenger, Jenny Jones was arrested for the methamphetamine. Martin Jones was let go. After further investigation over the past few months, it was determined indeed that Martin Jones was the primary possessor of the methamphetamine and had been responsible for having pounds of methamphetamine shipped from Las Vegas to the Bucks County area.

The mission in April 11th will be for Officer Kaminski to meet Detective Mallery at Quakertown PI and obtain arrest warrant for Martin Jones at app 1445 hours. Mallery, Kaminski and Detective Marsaglia will then travel to Upper Saucon PD and brief with Detective Frank Najera whom is familiar with Martin Jones and his residence. Surveillance will be set up in area to determine if Martin is home. (Martin works at a body shop in the Hellertown area believed in daytime business hours. If Martin is home, Detective Najera and Mallery will knock on the door in plain clothes and make contact with Martin. Upper Saucon patrol, Officer Kaminski, and Detective Marsaglia will cover perimeter. If Martin is there, Officer Kaminski and Detective Marsaglia will move in and place Martin under arrest.

Detective Najera will make general observations if inside the residence and if probable cause exists, possibly obtain a search warrant or consent to search.

Martin will be requested to waive his Lehigh arraignment(sign off) and be transported to Quakertown PD(or possibly Upper Southampton PD pending time constraints) for Livescan and video arraignment at 2000 hours. Officer Kaminski will take care of all transports in a caged vehicle.

TARGET VEHICLE INFORMATION

Vehicle(s)	Tag	Registered Owner
Unknown at this point	ZBY1916	Jason Frederick (Target)

POLICE PERSONNEL

Name	Cell #	Assignment
Detective Frank Najera	610-972-2732	Contact
Detective Mallery(99)	267-372-3799	Contact
Officer Mike Kaminski	267-278-5133	Arrest/Transport
Detective Tony Marsaglia	610-637-4530	Arrest/Transport
Upper Saucon patrol unit	?	Perimeter

INVESTIGATION NOTES

All communications will be via cell phone

Martin Jones co-defendant is Jenny Jones and expected to be present. Jenny provided information that is listed in Martin's PC. Jenny was reluctant to cooperate against Martin and may be fearful of him. She provided information in the past that he bet her with a pipe and broke her arm and Martin has also been cited for harassment in Upper Saucon in past for hitting her. Separate both parties immediately and not show Martin his Criminal complaint/PC until he is away from Jenny.

For these reasons, HIGH bail will be requested in conjunction with Martin's extensive Criminal history.

Both are heavy methamphetamine users as well.

Targets last known phone number is 484-773-3376

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BUCKS COUNTY DETECTIVES

99-2018-0219
FILE NUMBER

SUMMARY

On March 15, 2018 Cotelia Bond-Young from USPS emailed back and advised that only one package was delivered to the address I provided her in New York. She advised the address in Las Vegas had no packages shipped from it.

Due to the fact that there is no video from either the Feasterville Post Office and Las Vegas post office long with no actual packages intercepted, there will be no further active investigation at this point into Jones and his Las Vegas connect.

I conferred with DDA Kohler and it was agreed upon that Marty Jones would now be charged for the 5 ounces of methamphetamine from the September traffic stop. I will co-sign complaint once prepared.

STATUS: PENDING

REPORTED BY: Det. Joshua C Mallory 3-21-18

DATE OF INV.

DATE DICTATED

DATE OF TRANSCRIPTION

SIGNATURE

REVIEWED BY

FILE NAME

This document is the property of the Bucks County Detectives and is loaned to your agency; it and its contents are not to be distributed outside your agency.

**DECLARATION BY CUSTODIAN OR OTHER QUALIFIED
PERSON PURSUANT TO PA.R.E. 902(11):
DOMESTIC RECORDS OF REGULARLY CONDUCTED
ACTIVITY**

IN ACCORDANCE WITH PENNSYLVANIA RULE OF EVIDENCE 902(11):

Institution name:
Records Custodian Name/Title:
Institution Mailing Address:

United States Postal Inspection Service
Cotella Bond-Young / Postal Inspector
1000 W Valley Rd
Southwestern PA 19399
Cbond-Young@uspis.gov

Email for Records Custodian:

I HEREBY CERTIFY THE FOLLOWING:

1. The attached documents are original or duplicate copies of one or more memoranda, reports, records, and/or data compilations, in any form, of acts, events, or conditions, made at or near the time by, or from information transmitted by, a person with knowledge of such matters;
2. Said memoranda, reports, records, and/or data compilations were kept in the course of the regularly conducted activity of a business, institution, association, profession, occupation or any other calling;
3. Said memoranda, reports, records, and/or data compilations were made by such regularly conducted activity as a regular practice of the business, institution, association, profession, occupation or any other calling; and

I verify that the facts set forth in this Declaration are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of Section 4904 of the Pennsylvania Crimes Code, 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date: 8/28/16


Signature

Cotella Bond-Young
Name (Please PRINT)

ZIP11: 19053040404 Acceptance Date From: 3/8/2016 to 3/7/2018

Label	Cust ID	Customer Location Name	Acceptance Date
EL778660212US		Retail Express Mail	5/17/2017
EL778667476US		Retail Express Mail	6/1/2017
EL778667462US		Retail Express Mail	6/2/2017
EL767960193US		Retail Express Mail	6/27/2017
EL872669216US		Retail Express Mail	7/3/2017
9505514718997243162497		POS/RSS, APC or CARS	8/31/2017
EL852790439US		Retail Express Mail	8/31/2017

Delv Address	Delv ZIP	Delv ZIP	Delivery City	Delivery State	Delv	Delivery Date
	Code	Code +4			Walk	
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	5/19/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	6/2/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	6/3/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	6/28/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	7/5/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	9/2/2017
PO BOX 404	19053	0404	FEASTERVILLE TREVOSSE	PA	04	9/1/2017

Mailing Weight	Postage Amt	Item Mail Piece ID
0.62	\$23.75	38963481987
2.31	\$48.80	39188444290
1.44	\$23.75	39207967233
0.88	\$23.75	39598055065
0.69	\$23.75	39693669461
0.56	\$6.65	40629877611
0.56	\$23.75	40630465943

Mail Class			Acceptance		Acceptance
Sales Source Desc	Code	Mail Class Desc	ZIP Code	Acceptance City	State
Retail	EX	Priority Mail Express	89030	NORTH LAS VEGAS	NV
Retail	EX	Priority Mail Express	89030	NORTH LAS VEGAS	NV
Retail	EX	Priority Mail Express	89102	LAS VEGAS	NV
Retail	EX	Priority Mail Express	89030	NORTH LAS VEGAS	NV
Retail	EX	Priority Mail Express	89104	LAS VEGAS	NV
Retail	PM	Priority Mail	89199	LAS VEGAS	NV
Retail	EX	Priority Mail Express	89199	LAS VEGAS	NV

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BUCKS COUNTY DETECTIVES

99-2018-0219

FILE NUMBER

SUMMARY-MARTIN JONES-Arrest warrant, search warrant etc

On April 11, 2018 Officer Mike Kaminski of Upper Southampton and I co-signed a criminal complaint for Martin Jones for his involvement in the 5 ounces of methamphetamine at the September 4, 2017 incident. The complaint was sworn in front of Judge Benz and arrest warrant issued for Martin Jones with a 72 hr NCIC entry delay.

At app 1600 hours Officer Kaminski and I met with Detective Frank Najera at Upper Saucon PD to serve the arrest warrant at Jones LKA of 4400 Old Bethlehem Pk, Center Valley, PA. We traveled to that address at app 1630 hours where Najera spoke with Jones past landlord whom said he had relocated with his camper, possibly to Quaker Woods or Tohickon Campground. Jones owed him money for the electric bill still and expected he may be back. Najera did advised that Jones Ford 500 PA KLA3297 had past by their departments plate reader at app 1600 hours so he was suspected to possibly still be mobile.

At that point, do to both locations being in Bucks County, Officer Kaminski and I traveled first to the area of Quaker Woods Campground at 2225 Rosedale Rd, Milford Township, Bucks County. I traveled through the campground and could not locate the Ford at any campsite and noted most campers were backed in so I was unable to obtain tags.

I stopped in the campground office and met with the owner, Angela Yu. I asked her if she was familiar with Martin and Jenny Jones. She advised she indeed was an indicated they had checked in the campground on March 31, 2018. Yu pointed out the first occupied campsite on the left upon entry to the property she said was occupied by Martin Jones and Jenny Jones. Yu advised she had been seeing another unknown male there as of the last few days that is not supposed to be there.

DATE OF INV.

DATE DICTATED

DATE OF TRANSCRIPTION

SIGNATURE

REVIEWED BY

FILE NAME

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C

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BUCKS COUNTY DETECTIVES

99-2018-0219**FILE NUMBER**

I observed that camper to be a 2002 white Jayco Jay Flight trailer bearing PA registration XGH5465 registered to Martin Jones.

I set up surveillance in the front of the campground and had Officer Kaminski along with PSP Troopers, including Trooper Rogers and Stewart stage down the street out of view.

During that time, I observed the known wanted subject, Martin Jones along with his girlfriend, Jenny Jones pull into the campground in a 2007 red Ford 500 bearing PA registration KLA3297. The Ford parked at the Jayco camper.

I, along with assistance from Officer Michael Kaminski of Upper Southampton Police Department along with members of the Pennsylvania State Police, including Trooper Rogers and Stewart of the Pennsylvania State Police Dublin Barracks approached the camper and knocked on the door. Officer Kaminski and Troopers were in full uniform and marked patrol units.

Officer Kaminski knocked on the door and Martin Jones answered. Troopers and I stood by as Martin was handcuffed in the doorway for officer safety due to other occupants present while Jones was secured. I spoke with known occupant of the camper, Jenny Jones along with Martin Burg whom were inside the camper. Jenny Jones was inquiring what was happening with Martin and engaged in conversation about the case which she also was familiar with. Jenny began asking to see Martin but he was not secured in a patrol unit at that time. For officer safety she was contained to the camper area along with another occupant, Martin Burg. While speaking with Burg and Jenny Jones, I heard Trooper Stewart asking Jones about the location of guns. I determined through the conversation that guns were suspected in the camper. I was advised also that on search incident to arrest, a shotgun "bolt" was located on Martin Jones' person.

Through the investigation, I had learned by running Martin Jones criminal history that he had been a convicted felon not to

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possess firearms. His criminal history for his state identification number shows that he is disqualified to own/possess any firearms.

At one point, while in by the front door/kitchen area of the camper observed Martin Burg appearing extremely nervous and was looking at one of the Troopers waistbands in the direction of his firearm. Burg was asked if he had any weapons on his person. Burg admitted to having a knife in his right front pocket which your affiant removed and found to be spring assisted, making it illegal to possess. Burg also admitted to an orange capped needle on his person which I felt on a pat down for weapons and was removed. Burg admitted to shooting methamphetamine with it. Also found on his person were two clear plastic baggies commonly used for packaging methamphetamine.

During interaction with Jenny then, I asked if there were any guns in the residence. Jenny said there had been but Martin removed them two days prior as she sat on the recliner in the small room to the right just inside the door. I directed attention back to Burg and Troopers, whom were interacting with him. I then turned back around towards Jenny, whom was observed to have bladed her body from me, but still looking at me over her shoulder suspiciously and noted her to be reaching in the area between a nightstand and dresser with her hands. Due to the belief that weapons were in the house and Jenny Jones furtive movements, I approached her at that time and detained her in a set of handcuffs until the scene was secured and Martin Jones confirmed in a police unit. When I approached Jenny Jones and looked between the dresser and nightstand, I observed what was recognized as the tip of a canvas type gun case, green in color with a plastic end cap, consistent with cases used by persons to carry and conceal shotguns and rifles. Also observed in plain view within the house was American Eagle Handgun ammunition by Troopers.

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At that point another subject identified as Marie Vitellaro crawled out from behind a curtain/bedding area where the ammo was. All occupants were directed outside of the camper at that point for safety and to secure such for a search warrant due to the totality of all the circumstances. Troopers, including Rogers remained there and kept anyone from entering the camper. They advised Burg, Vitellaro, and Jenny Jones what was going on. During this time, Jenny Jones said to Trooper Rogers there was no methamphetamine in the camper but there was some marijuana.

Officer Kaminski transported Martin Jones back to Quakertown Police Department where he was lodged for a 2000hr arraignment. Martin Jones did admit to Officer Kaminski that he had a shotgun but said it was at his friends house, but spoke no further of it and stopped speaking with officers.

In the meantime I prepared an application for search warrant for Jones' Jayco camper which was approved by ADA Dave Burdett.

At 2000 hours Jones was arraigned in front of Judge Baranowski and bail set as a cash percentage bail of \$75,000 which Martin Jones was unable to post. I also contacted Lehigh County Probation and advised PO Aaron Lichtfus of Martin Jones' new arrest. They also filed a probation detainer and sent a copy to BCP where Officer Kaminski transported Jones to.

Judge Baranowski subsequently approved issuance of a search warrant for Martin Jones camper.

At 2125 hours Detective Tim Carroll (BCD), Ptlm Ryan Hawke (QPD), arrived out at Jones camper. Trooper Rogers was still there maintaining scene security. Entry was made to the still unlocked camper and search conducted.

I located where Jenny Jones had been reaching a green /tan canvas shotgun zipper case. The case was hidden behind a dresser with clothing on top of it to conceal it further. I opened such case and located a Remington Model 1100, 12 gauge shotgun (Serial

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#L848625) with the end of the barrel sawed off. (I later ran serial number which came back clear NCIC and no ownership). The gun appeared to have the bolt area/firing pin removed, consistent with the part found on Martin Jones person at time of arrest. The engraving pattern/design on the bolt was also consistent with the pattern between the bolt and the gun stock. Also in the same room a spare Remington 12 gauge barrel was located hidden leaning in the corner behind a pile of clothes. Also within that room in one of the dresser drawers was a brown leather change purse containing a baggie of green vegetable like matter suspected to be marijuana. Also in camouflage backpack within the room was green 12 gauge shotgun round.

In the kitchen area of the camper, Detective Carroll located a brown wooden type box with drawer and compartment. Within the box was multiple AR15 type ammo clips, gun cleaning supplies, and gun parts. Also located with the box was a plastic ammo box containing .45, .40, and .410 caliber ammo. On top of that box was a box of .40 caliber American Eagle ammunition.

Ptlm Hawke located within the kitchen cabinets a small black zipper up pouch containing a clear plastic baggie with a small amount of a crystal like substance suspected to be methamphetamine. Hawke also located a blue knife that also appeared to be spring assisted lying on the kitchen floor by the doorway.

All items were collected and logged as evidence and temporarily stored in Quakertown PD evidence (and later transported to Thiokol on April 13). A copy of the search warrant was left in the kitchen in the camper. A search warrant inventory was later completed and faxed to BCP records for Jones' file. I emailed the search warrant return and inventory to District Ct Quakertown on April 13, 2018.

On April 13, 2018 I spoke to Detective Slattery of BCD and advised of the gun found with a part suspected to be from it

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found on Jones person. Slattery advised he could test fire the gun at a later time if need be for trial. Note Slattery is a BCD certified range instructor.

On April 16, 2018 I received an email from Detective Brad Jones of Bethlehem PD. Jones advised that last Thursday or Friday Lower Saucon PD met with Martin Jones boss from an auto body shop in their jurisdiction. The boss had heard about Jones arrest and notified Lower Saucon that a few days before Jones arrest, he had seen Jones place a gun in his toolbox there at the business. Lower Saucon Officer Shelly executed a search warrant on the tool box and located an AR15 assault rifle. The trigger had been modified to be fully automatic and switch removed. Detective Jones advised he was contacted due to being attached to the FBI Task Force. Jones was asked about possibly taking the case federal and noted the Bucks County arrest. He advised he would be speaking with a US Attorney about taking the case.

I contacted DDA Kate Kohler and Deputy Chief Mosiniak about the possibility of taking the case federal which both were in agreement with. DDA Kohler spoke with District Attorney Weintraub who had no objection to the case possibly going federal. DDA Kohler requested they possibly take Jenny Jones case with it since they are co-defendants and she had been cooperating. I advised I would forward the request.

STATUS: PENDING

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REPORTED BY: Det. Joshua C Mallery 4-16-18

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defendant Najera, he kept giving me excuses why my phone was not in property room at police station. Defendant Najera stated to plaintiff Jones, he viewed the cell phones content, and needs plaintiff Jones to sign a consent to search, before he will return phone to me. Finally after 2 months of going back and forth about getting my cell phone back he returned only 1 cell phone on 1-10-18, never mentioned the second cell phone. Jenny L. Jones was a witness to plaintiff Jones conversation with defendant Najera, in the police station waiting room. On June 28, 2018, Preliminary Hearing, Before Lisa Grier 281 California RD, Quakertown PA. District court 07-2-05 Transcript by: Buck County Reporters. Defendant Najera got consent after extraction of cell phone, never mentioned second extraction. Second cell phone came about, in a

Summary on February 13, 2018 NOTE: "QUOTE"

Note that Upper Saucon Detective Frank Najera has copies of 2 separate phone extractions from 2 phones Masty Jones had in Lehigh County, Najera believes these phones have the Las Vegas contact info along with Bank of America account information on them. Arrangements will be made to pick up copies of such extractions

Defendant Najera and Mallory both reviewed Plaintiff Jones 2 cell phones. Then had plaintiff Jones sign a consent for 1 cell phone 1-10-2018, And not the 2 phone. They reviewed and extracted both phone before consent of the first 1.

Defendant Mallery, on June 28, 2018. Preliminary Hearing, before Lisa Galer, 281 California RD, Quakertown, PA. District Court 07-2-05

Transcript by: BUCKS COUNTY REPORTERS, Defendant Mallery STATED: On page 60 (9).

I turned back around and that's when Miss Jones is doing the hand motion, but still

maintaining trying to watch what I'm doing.

Defendant Mallery Summary report: I turned back around towards Jenny, whom was observed to have bladed her body from me, but still looking at me over her shoulders suspiciously and noted her to be reaching in the area

between a nightstand and dresser with her hands.

Page 3 of Summary: I located where Jenny had been reaching a green and tan canvas Shotgun zipper case. The case was hidden behind a dresser with clothing on top of it to conceal it further.

Bucks COUNTY DETECTIVES: Summary - Martin Jones, STATES: On April 11, 2018 officer

Mike Kaminski of Upper Southampton and I co-signed a criminal complaint for Martin Jones for his involvement in the 5 ounces of methamphetamine at the September 4, 2017 incident Pages 1-7.

A All Defendants played a roll, which they wrote out, in a plan: THE BUCKS County Drug
D E STRIKE Force, Ops mission: On 4-11-2018,
D X defendants planned to serve a body warrant ~~X~~
B on plaintiff Jones. In that defendants, Conspired
D to violate plaintiffs Fourth Amendment. They
T openly written it, in there plan of attack.

A Jenny L, Jones, stated to Will Weckerly,
B 801 W. Schwenkmill RD, Apt. 8 Perkasie, PA. 18944
C phone 267-318-5075, a mutual friend of Martin
D I Jones and Jenny L, Jones.
T Defendant Mallery asked Jenny L, Jones where are
the guns? and drugs?
B Jenny L, Jones was pointing behind the dresser.
C I Jenny L, Jones stated to Will Weckerly: That
D I She could not reach back behind the dresser from
T where she was sitting.
I Defendant Mallery told Jenny L, Jones, that he
was going to say: She was reaching to cover up sawed
off shotgun.
J Jenny L, Jones stated Defendants were looking ~~X~~
all around in the residents, before they got the
Search warrant.

Jenny L. Jones Stated defendant Mallery lied and fabricated her statements, to say what he wanted them to say.

A B Jenny L. Jones, did 18 months in state prison
B X and is currently on state parole, for the
C B 5 ounces of methamphetamine.
D F

Jenny L. Jones Stated She is scared of going back to prison.

Jenny L. Jones Stated defendant Mallery told her If she fights her case, she will go to jail for a very long time.

4. The foregoing factual allegations create a genuine issue of material fact and will, if proved at trial, support judgement in my favor.

(5-20-2020)

Martin W. Jones / NN 4778

SCI-Rockview

Po Box A

Bellefonte, PA, 16823

Martin W. Jones

prejudice. Jones is GRANTED leave to amend his Complaint on or

before **Monday, September 14, 2020.**

b) DENIED as to the claim against Marsaglia for the search of Jones's residence.³

3) Frank Najera's Motion (ECF No. 13) is DENIED.⁴

4) Joshua Mallery's Motion (ECF No. 16) is DENIED.⁵

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPER, J.

³ Read liberally, Jones's Complaint alleges that Marsaglia participated in the supposedly unlawful search of his residence. *See* (Compl. ¶¶ 16–20). Discovery may disprove that assertion, but for now, the Court must assume the truth of Jones's allegations. *See Iqbal*, 556 U.S. at 679. And as the Court explained earlier, those allegations state a claim for an unlawful search under the Fourth Amendment. *See* (Mem. 10–11). The Court need not consider at this point whether the defendants are entitled to qualified immunity. As the defendants recognize, their qualified-immunity argument turns on a finding that the search was part of “a protective sweep.” (Mem. Supp. Marsaglia & Kaminsky's Mot. to Dismiss 8, ECF No. 12.) The four corners of the Complaint—viewed in Jones's favor—offer no basis to conclude that the search in question was in fact a protective sweep. *See Maryland v. Buie*, 494 U.S. 325, 327 (1990). If after discovery the defendants wish to reassert their qualified-immunity argument, they are free to do so.

⁴ Jones alleges that Najera participated in the purportedly unlawful searches of his phone and residence. *See* (Compl. ¶¶ 16–20, 26–31). For the reasons given above, Najera's qualified-immunity argument regarding the search of Jones's home is premature. *See* (Mem. Supp. Najera Mot. to Dismiss 6–7, ECF No. 13-3). Najera's related argument that Jones consented to the search of his cellphone fails because the Court declines to consider materials outside the Complaint attached by the defendants. *See Pryor v. Nat'l Collegiate Athletic Ass'n*, 288 F.3d 548, 560 (3d Cir. 2002); *see also* 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1364 (3d ed.) (Westlaw 2020).

⁵ Mallery's Motion mirrors Najera's in all relevant respects and is denied for the same reasons.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARTIN W. JONES,

Plaintiff,

v.

TONY MARSAGLIA, *et al.*,

Defendants.

CIVIL ACTION
NO. 19-04678

ORDER

AND NOW, this 23rd day of June 2020, upon consideration of Martin Jones's Motion for Appointment of Counsel (ECF Nos. 19 & 20) it is **ORDERED** that the Motion is **GRANTED**. The Clerk of Court shall **REFER** this matter to the Prisoner Civil Rights Panel for the Eastern District of Pennsylvania for possible appointment of counsel¹ and place this case in **CIVIL SUSPENSE** until **Monday, August 24, 2020**. If by that date an attorney has not accepted Jones's case, the Clerk of Court shall **REMOVE** the case from the Prisoner Civil Rights Panel. The Defendants shall promptly **PROVIDE** Jones with a copy of this Order.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

¹ Jones should note that he has no legal right to an attorney in this civil action; nor is the Court appointing an attorney to represent him. Rather, the Court is asking an attorney to review Jones's case. The attorney may, at her discretion, decide whether to represent Jones in this case.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT of PENNSYLVANIA

PLAINTIFF

CIVIL ACTION 19-4678

MARTIN W. JONES

v.

JURY TRIAL DEMANDED

DEFENDANT'S

TONY MARSAGLIA et al,

DECLARATION OPPOSITION
DEFENDANTS MOTION FOR SUMMARY
JUDGEMENT

Martin W. Jones states:

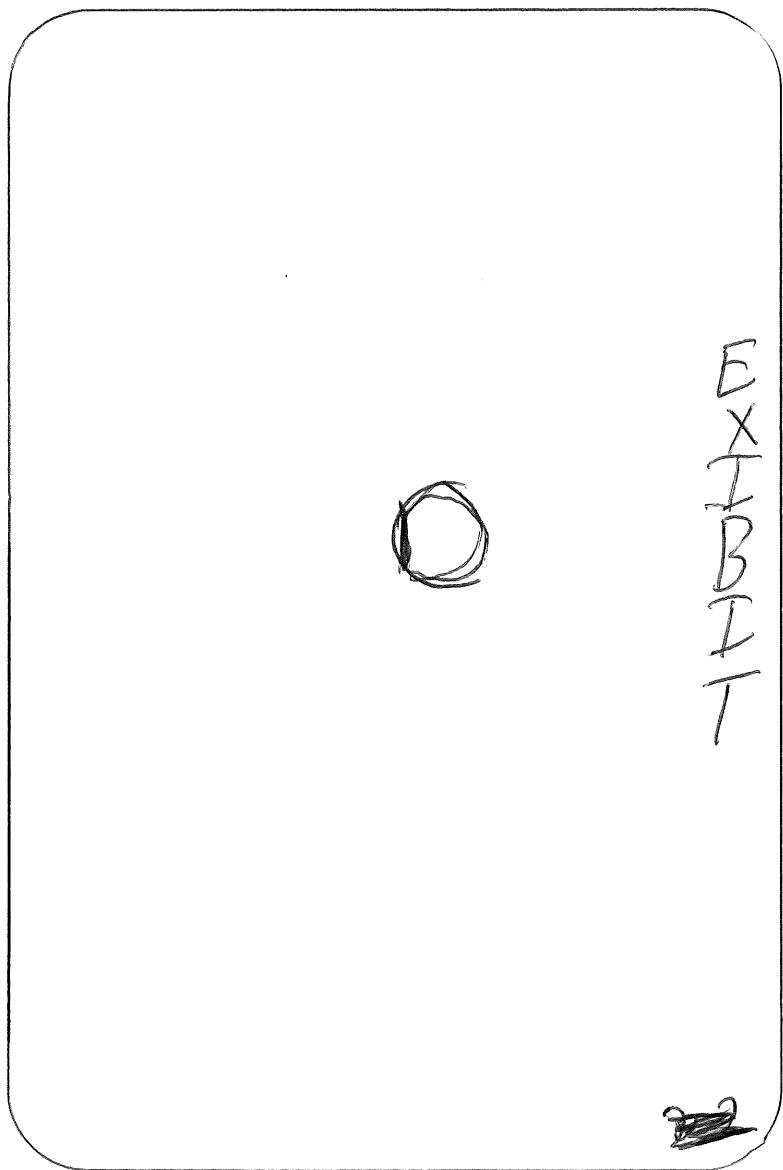
1. I am the plaintiff in the above-entitled case. I make this declaration in opposition to defendant's motion for summary judgement on my claims concerning the Fourth Amendment violation against me, by defendants Najera and Mallery.

2. Upper Saucon Township Police Department, Lehigh County, on November 7, 2017, Defendant Najera, placed plaintiff Jones, under arrest for possession of drug paraphernalia in a traffic stop.

3. Defendant Najera confiscated a cell phone from plaintiff Jones, plaintiff Jones was incarcerated for 2 weeks, On or about November 21, 2017 plaintiff Jones got out of jail, and went to Upper Saucon Township police Department to retrieve his cell phone, from

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Jones advised that she and Marty had this PO Box for app 8 months prior to her arrest. Jones advised she had performed the same scenario on at least 6 different occasions. She advised the other occasions were less money and only 2-3 ounces of methamphetamine purchased at a time. She advised Marty would not accompany her into the bank or post office on any of the occasions.

*W
C*

Note that Upper Saucon Detective Frank Najera has copies of 2 separate phone extractions from 2 phones Marty Jones had in Lehigh County. Najera believes these phones have the Las Vegas contact info along with the Bank of America account information on them. Arrangements will be made to pick up copies of such extractions.

Jones did admit she knew Marty was selling the meth, but did not know his customers. She advised he kept that to himself and did not help him distribute it.

I asked Jones if she ever met his source in Las Vegas. She said that she did not ever meet them. She said on one occasion Marty and she had been driving to Las Vegas to go meet the source. She advised Marty had controlled her medication and would not give it to her. She said on the way, she became upset and in the area of Richmond, Virginia, she jumped out of their vehicle. She said she had a nervous breakdown and went to a cashier at a gas station to call an ambulance. An ambulance came and picked her up and transported her to a hospital she believed was called "Reed". She said Marty left her there and continued to Las Vegas. On his way back 7 days later, he came back through and picked her up and took her home.

Jones also indicated that a female relation of his family had also been a source of methamphetamine from Las Vegas as well but she knew limited details of.

I advised Jones and her attorney that the case was going to be investigated further and reviewed with my supervisor and the

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not go to the hospital and Marty would not take her. She said app 2 weeks after Marty hit her with the closet rod, she went to Aria Hospital where she told hospital staff she fell on rocks and hurt herself. She never reported to the police about Marty actually hitting her. I asked Jenny if she was scared of Marty to which she said she was, after initially denying being scared at the beginning of our interview. Jenny advised that (and I had confirmed on prior occasion) that Marty had assaulted her in Lehigh County in Upper Saucon in the late summer. Marty had been arrested and incarcerated briefly in Lehigh County for such. She also advised in March 2017 Marty broke her cell phone because he thought she was talking to other men. She said she did not get a new cell phone until only two weeks ago. Marty had not allowed her to have one.

I asked Jenny where the methamphetamine came from in the vehicle when she was arrested in Upper Southampton. She went on to provide the following in answers to my questions;

Jones advised that app 3 days prior to the arrest, Marty drove her to the Bank of America in Feasterville on Street Road. There, Marty gave Jenny \$2500 and wrote down an account number on a piece of paper on a bank slip. Jenny had to take the money in and deposit it into the specified account for it to be wired to Marty's meth source in Las Vegas. Jones knew the money to be for 5 $\frac{1}{2}$ ounces of methamphetamine Marty was purchasing. Jones then said the day of the traffic stop and arrest she believe to be a Saturday, Marty drove her to the Feasterville Post Office where they both shared jointly PO Box 404 under names Martin Jones and Jenny Jones. There, Marty had her go in and pick up a package from their PO Box at app 1130 hours. Jones described it as being in a regular Post Office cardboard type mail envelope addressed to her. She brought it back out to Marty, whom took it home and would open it. Jones said there were individual baggies of methamphetamine. She said they were regular sandwich baggies knotted at the top and inside one yellow envelope.

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FILE NUMBER

SUMMARY

On February 13, 2018 I had opportunity to sit down and interview Jenny Jones in the Bucks County District Attorney's Office. Also present was Nick Williamson from the Public Defender's Office. Williamson was standing in for Jones original public defender, Ken Hohne.

Jones was advised in her attorney's presence that it was in her best interest to tell the truth about her knowledge of the incident and the source of the methamphetamine found in the vehicle she was in at time of arrest in Upper Southampton Township.

Jones initially was not forthcoming and spoke with Williamson privately prior to her speaking with me when providing the truth.

Jones advised she had met Marty Jones in January of 2017 in Allentown. Jones said she had been abused by her ex-boyfriend in Allentown and left their house with no money or personal items. She had been at a 7-11 and saw Marty Jones sitting in a truck there and came up to him and asked him for \$1. Marty proceeded to ask her if she needed a place to stay, etc. He proceeded to have her get in his truck and drove her to a Kmart and bought her a wardrobe of clothing and then took her to her house right afterwards. Marty allowed Jenny to stay there at his house at 353 Philmont Ave in Feasterville.

Once staying at the house there, Marty admitted to Jones that he was a drug dealer and told her she would become one too. Jones initially said she wanted no part to do with dealing drugs. She said in late January 2017 or February 2017, Marty wanted her to go with to pick up money owed to him for drug sales. She said he became irate with her and they began arguing. Jones said Marty pulled out a closet hanging rod and began chasing her through the house. She said he got her backed into a corner and hit her with the rod in the arm, breaking such. Jones said initially she did

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CompHill, PA,

17001

19106-1797

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Philadelphia, PA